

IN THE WESTERN DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

EVDOKIA NIKOLOVA,
Plaintiff

VS.

UNIVERSITY OF TEXAS AT AUSTIN,
Defendant

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CIVIL ACTION

NO. 1:19-CV-00877-RP

JURY REQUESTED

**PLAINTIFF’S OPPOSED MOTION FOR LEAVE TO FILE A SUR-REPLY IN
OPPOSITION TO DEFENANT’S MOTION FOR PARTIAL SUMMARY JUDGMENT**

TO THE HONORABLE JUDGE OF THIS COURT:

Evdokia Nikolova, Ph.D., (“Dr. Nikolova” or “Plaintiff”) files this opposed motion to file a sur-reply in opposition to Defendant’s motion for partial summary judgment [#39] and shows the Court and Jury as follows:

1. Plaintiff respectfully request leave to file the attached short sur-reply to respond to several newly raised issues in Defendant’s Reply In Support of Motion for Summary Judgment and incorrect statements of fact and law.

2. This sur-reply briefly responds to several points raised in Defendant’s reply, including: (a) Dean Wood’s participation and influence on President Fenves’ decision to deny tenure and its legal significance; (b) UT’s reasons for the denial *have* changed and the inferences of discrimination raised by those changing reasons; (c) Nikolova has presented relevant evidence of other similarly situated assistant professors who were treated more favorably by UT; and (d) the importance of the negative performance and teaching reviews as part of Nikolova’s retaliation claim and the Supreme Court’s explanation of “but-for” causation in in *Bostock v. Clayton Cty.*, 140 S. Ct. 1731, 1739 (2020).

3. Dr. Nikolova’s case raises extremely important issues about the employment

practices and sex discrimination on the faculty of Texas' biggest and most prominent university. The issues in this suit will impact UT's employment practices far beyond Dr. Nikolova's particular claims. UT's Motion for Summary Judgment seeks to dismiss without a trial the guts of Dr. Nikolova's important civil rights, discrimination and retaliation causes of action. Plaintiff's Sur-Reply is necessary to provide this Court with full and accurate briefing regarding the important issues at stake in this case.

4. Plaintiff's Motion for Leave is not filed for delay or other inappropriate motive, and will assist the Court in its review and decision regarding Defendant's Motion for Summary Judgment.

PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Dr. Nikolova respectfully requests that the Court grant her request to for leave to file a short sur-reply in opposition to Defendant's motion for partial summary judgment, and such other and further relief as the Court determines justice and fairness so require.

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF CONFERENCE

I hereby certify that I conferred with Defendant's counsel Benjamin L. Dower by email on Wednesday, November 18, 2021 on the matter in this motion. Mr. Dower stated that Defendant is opposed to the relief sought by this motion.

/s/ Robert W. Schmidt
Robert W. Schmidt

CERTIFICATE OF SERVICE

I hereby certify that on November 18, 2021, this document was served pursuant to Federal Rules of Civil Procedure on counsel for Defendants at the following address:

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